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SERVICE DATE - APRIL 9, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-550 (Sub-No. 1X)

R.J. CORMAN RAILROAD COMPANY/ALLENTOWN LINES, INC.–
ABANDONMENT EXEMPTION–IN LEBANON COUNTY, PA

Decided: April 8, 2004

R.J. Corman Railroad Company/Allentown Lines, Inc. (RJCN) filed a notice of exemption under 49 CFR 1152.50 to abandon: (1) the Cornwall Industrial Track between approximately milepost 0.9 and approximately milepost 3.66; and (2) the Lebanon Industrial Track between approximately milepost 18 and approximately milepost 18.6, a distance of approximately 3.36 miles, in Lebanon County, PA.¹ On October 16, 2001, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for Lebanon Valley Rails-to-Trails (LVRT) to negotiate an interim trail use/rail banking agreement with RJCN for the right-of-way involved in this proceeding. The negotiation period was extended several times; the latest extension was scheduled to expire on April 5, 2004.²

On April 2, 2004, RJCN and LVRT filed requests for an additional 180-day extension of the negotiating period so that remaining negotiations can be completed.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, an extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended for an additional 180 days from April 5, 2004 (until October 2, 2004).³

¹ Notice of the exemption was served and published in the Federal Register on September 17, 2001 (66 FR 48076).

² The most recent extension of the negotiation period under the NITU was authorized by decision served October 7, 2003.

³ See Rail Abandonments–Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The negotiating period under the NITU is extended to October 2, 2004.
2. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary